UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/661,047	RISAN ET AL.
	Examiner	Art Unit	
	JASON K. GEE	2434	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *8/19/2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-88* is/are pending in the application.

    4a) Of the above claim(s) *1-29 and 55-88* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *30-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

U.S. Patent and Trademark Office
PTOL-326 (Rev. 08-06)   Office Action Summary   Part of Paper No./Mail Date 20081117

DETAILED ACTION

1.   This action is response to communication: amendment filed on 08/19/2008.

2.   Claims 30-54 are currently pending in this application. Claims 30 and 42 are

independent claims.

3.   No new IDS was received for this application.

Response to Arguments

4.   Applicant's arguments filed 08/19/2008 in regards to the new claim limitations

have been fully considered and are moot in view of new ground(s) of rejections.

5.   Applicant's arguments filed 08/19/2008 in regards to the previous references

have been fully considered but are not persuasive.

The Applicants argue that Peinado does not teach a "a usage compliance

mechanism controlling a data output path by diverting a first data pathway used by

media content provider application to a second data pathway governed by said

compliance mechanism." However, as discussed earlier in the previous Office Action,

Peinado teaches such limitations, as seen in paragraphs 128 and Figure 5A. As

described in paragraph 128, if digital content is not protected, the content may be

immediately rendered. This is the first data pathway.   If the digital content is to be

protected, the content is diverted to run the DRM system. This is the second data

pathway. Also, as seen in Figure 5A, there are two pathways taken.

The applicants also argue claim 31,and say that there hindsight in using the Leo

reference. However, as clearly stated in paragraph 70, finding secure bridging units

that are physically close are advantageous as it allows better service. It is known to

anyone in the art, and is clearly stated also by Leo that it is well known in the art.

The applicants also argue that combining the references are improper and that

there is no motivation to combine such references. However, all the references are

directed toward computer security, and more specifically, DRM systems and secure

sharing of data between clients. They do not change the principle of operation. All the

references are relevant art, and may be modified to teach the limitations of the claim. In

systems concerning DRMs and data sharing environments, the methods are all directed

toward secure content distribution toward different users and clients, and thus, is

relevant. art. Even though Peinado focuses on a single system, the licenses are still

global and are controlled by outside servers which relate to other systems.

Claim Rejections - 35 USC § 112

6.   The previous 112 rejections have been withdrawn in response to applicant's

amendment.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 30, 31, 33-37, 39-43, 45-50, 52, and 54 are rejected under 35

U.S.C. 103(a) as being unpatentable over Kuriya et al. US Patent Application

Publication 2001/0056404 (hereinafter Kuriya), in view of Leoutsarakos US Patent

Application Publication 2004/0039905 (hereinafter Leo), further in view of Peinado et al.

US Patent Application Publication 2002/0007456 (hereinafter Peinado), and further in

view of McAuliffe et al. US Patent No. 5,838,790 (hereinafter McAuliffe).

As per claim 30, Kuriya teaches a method for preventing unauthorized recording

of media content, said method comprising: transmitting from a client node to an

administrative node a request for delivery of an instance of media content (throughout

the reference, such as in paragraph 347, Figure 24), transmitting to said client node an

access key and a location of said instance of media content of said content source

(Figure 24, paragraph 348);

However, at the time of the invention, Kuriya does not explicitly teach all the

details of the limitations. However, Leo teaches some of these limitations. Kuriya

teaches content sources and providing addresses of a content server, but does not

explicitly teach determining which content sources of a plurality of content sources to

provide delivery of said instance of media content, provided said client node is

authorized to receive said instance of media content. However, determining a preferred

device to connect to from a plurality of devices is taught by Leo, such as in paragraph

69-71. Also, as can be seen in Leo, these passages teach that a client device is

provided the address and a key/ticket to connect to the preferred device. Further,

transmitting the ticket/key to the preferred device designated by the address to receive

service is taught in paragraph 74 of Leo. Combined with the Kuriya reference, the

service could be receiving a the preferred content. Further, Kuriya teaches that in

response to receiving said second request and said access key, transferring said

instance of media content from said content source to said client node (paragraph 357),

However, at the time of the invention, the Leo and Kuriya reference do not teach

all the limitations of the claims. However, this is taught by Peinado. Peinado teaches

activating a compliance mechanism for enforcing compliance with a usage restriction

applicable to said instance of media content in response to said client node receiving

said instance of media content (paragraph 17, paragraph 147); controlling a data path of

a kernel-mode media device driver of said client node with said compliance mechanism

(throughout the reference, such as in paragraph 18); and directing said media content

from said kernel-mode media device driver to a media device driver coupled with said

compliance mechanism, via said data path, for selectively restricting output of said

media content (throughout the reference, such as in paragraphs 18, 19, 147, 128).

Peinado also teaches wherein the compliance mechanism controls a data output path

by diverting a commonly used data pathway of said media content present application

to a controlled data pathway monitored by said compliance mechanism, which is taught

in Figure 5 and paragraph 128, in which a protected data is diverted toward a pathway

controlled by the compliance mechansim.

However, the combination above does not teach the transfer of data in an

unencrypted format. This would have been obvious though. Cryptography is always a

balance between security and time efficiency. Therefore, at the extreme ends, if one

wants a quick system, he would implement a system with no encryption or little security. However, if one would want a very secure system, he would implement complex algorithms that would not be as time efficient. McAuliffe teaches such limitations though, throughout the reference, while still implementing file security without encryption, such as in col. 4 lines 7-13.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the Kuriya reference with Leo. One of ordinary skill in the art would have been motivated to perform such an addition to be able to ensure security in an environment where data is shared between servers and plurality of clients. This is taught throughout Leo, such as in paragraphs 5-9. Also, Leo is relevant art, as it is directed toward security in data sharing environments.

Also, at the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the Peinado reference. One of ordinary skill in the art would have been motivated to perform such an addition to ensure a piece of content is not misused or used against the content owner's wishes. This is taught in paragraph 7 of Peinado: "Further, a need exists for a trusted component running on the computer device, where the trusted component enforces the rights of the content owner on such computing device in connection with a piece of digital content, even against attempts by the user of such computing device to access such digital content in ways not permitted by the content owner."

Also, at the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the $$ reference. One of ordinary skill in the art would have

been motivated to perform such an addition to create more security. As mentioned

above, implementing security is always a balance between security and efficiency. As

taught by McAuliffe in col. 3 line 65 to col. 4 line 12, sending a file unencrypted would

allow for efficient data transmission.

As per claim 31, Leo teaches wherein said determining which content source of

said plurality of content sources to provide delivery of said instance of media content

further comprises: determining which content source of said plurality of content sources

is nearest to the physical location of said client node (paragraph 70). Picking a content

server close to the client unit would be obvious, as it teaches in paragraph 70 that

someone skilled in the art will appreciate that better service can be provided if a

connection is close rather than far.

As per claim 33, Peinado teaches wherein an access key to a content is time

sensitive and becomes obsolete after a defined amount of time (paragraph 165, wherein

the license is a key, and an expiration date exists; also paragraph 12).

As per claim 34, Leo teaches wherein said location of said instance of media

content comprises an address (paragraph 69). Also, Kuriya teaches this as well, such

as in 348 and 422.

As per claim 35, it is inherent that an address is changed if a media content is

transferred. If the content is transferred to the client node (in this case, it is), the

address of the content would be changed to the client node.

As per claim 36, Peinado teaches preventing said instance of media content from

being returned from said kernel-mode media device driver to a recording application

coupled to said client node when recording said instance of media content violates a

usage restriction applicable to said instance of media content (paragraphs 7, 12, 19-21,

125, abstract).

As per claim 37, Peinado teaches allowing said media content to be returned

from said kernel-mod device driver to a recording application coupled to said client

system when recording said instance of media content complies with a usage restriction

applicable to said instance of media content (paragraphs 7, 12, 19-21, 125, abstract,

where a license may allow a user to copy the content).

As per claim 39, Peinado teaches accessing an indicator associated with said

instance of media content for indicating to said compliance mechanism a usage

restriction applicable to said media content (paragraphs 10-13).

As per claim 40, Peinado teaches wherein said kernel-mode media device driver

is part of an operating system operable on said client system (abstract, paragraphs 19-

21). Further, it is also inherent, as a 'kernel' is defined as "the core of an operating

system – the portion of the system that manages memory, files, and peripheral devices;

maintains the time and date; launches applications; and allocates system resources."

This definition is provided by the Microsoft Dictionary, 5th Edition.

As per claim 41, Peinado teaches throughout the reference altering said

compliance mechanism present on said client node from a content source of said

plurality of content sources in response to a change in a usage restriction comprising a

copyright restriction or licensing agreement applicable to said instance of media content

(throughout the reference, such as in paragraphs 168-170)

Claim 42 is rejected using the same basis of arguments used to reject claim 30 above. Directing said instance of media content to a custom media device coupled to said compliance mechanism via said data output path, for selectively restricting output of said media content, is taught in Peinado in paragraph 128 and 147.

Claim 43 is rejected using the same basis of arguments used to reject claim 31 above.

Claim 45 is rejected using the same basis of arguments used to reject claim 33 above.

Claim 46 is rejected using the same basis of arguments used to reject claim 34 above.

Claim 47 is rejected using the same basis of arguments used to reject claim 35 above.

As per claim 48, Peinado teaches wherein said instance of media content comprises a digital watermark or an embedded key (paragraphs 61, 66).

Claim 49 is rejected using the same basis of arguments used to reject claim 36 above.

Claim 50 is rejected using the same basis of arguments used to reject claim 37 above.

Claim 52 is rejected using the same basis of arguments used to reject claim 39 above.

Claim 54 is rejected using the same basis of arguments used to reject claim 41

above.

9.   Claims 32 and 44 are rejected under 35 U.S.C 103(a) as being obvious over the

Kuriya combination as applied above, and further in view of Ferguson et al US Patent

Application Publication 2002/0065849 (hereinafter Ferguson).

As per claim 32, the Kuriya combination does not explicitly teach determining

which content source of said plurality of content sources contains said instance of

media content. However, this would have been obvious, if not inherent. When multiple

content servers are available, and only a selected few content servers carry the desired

content, it would not make sense to direct the user to a content server which does not

hold the piece of content. For further reference, Ferguson teaches this, such as in

claims 170, 179, 180, and throughout the reference.

At the time of the invention, it would have been obvious to include the teachings

of Ferguson with the Kuriya combination. By ensuring that the user is directed to the

content server which actually holds the piece of content, it would help increase the

speed of the system as the system would not need to redirect to multiple content

servers until the client is directed to a content server that actually holds the piece of

content. Further, Kuriya teaches that there is a need for a system that allows seamless

and integrated access to both local, as well as distributed content and information.

Claim 44 is rejected using the same basis of arguments used to reject claim 32

above.

10.   Claims 32 and 51 are rejected under 35 U.S.C 103(a) as being obvious over the

Kuriya combination as applied above, and further in view of Radinsky US Patent No.

5,668,996 (hereinafter Radinsky)

As per claim 38, The Kuriyan combnation does not explicitly teach restricting said

client node to have said media device driver implemented as a default media device

driver. However, Peinado alludes to this paragraph 128.   In this paragraph Peinado

teaches that the client computer only uses the DRM drivers only if the content is

protected. Therefore, in the normal case, when content is normal and not protected, the

content may be rendered without further ado (also Figure 5A). For further reference, a

media driver set to default is shown in Radinsky, such as in claims 9, 14, and 40.

At the time of the invention, it would have been obvious to restrict the client to

have a media device driver implemented as the default media device driver. In general,

since more content is not protected compared to protected, it would be faster to make

the default media driver the one without protection. By doing so, the system may be

faster, as only selected documents are protected.   Further, setting a driver to default is

a design choice, and any user may set drivers to a default driver in accordance to his

preferences.

Claim 51 is rejected using the same basis of arguments used to reject claim 38 above.

11.   Claim 53 is rejected under 35 U.S.C 103(a) as being obvious over the Kuriya combination as applied above, and further in view of McGillis et al US Patent No. 7,032,228 (hereinafter McGillis).

As per claim 53, the Kuriyan combination does not explicitly teach wherein the custom media device is an emulation of a custom media driver. However, it is well known in the art that emulation drivers may be used. For further references, emulating drivers is taught in Mcgillsis, such as in col. 1 lines 40-64.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to emulate devices, such as custom media devices. One of ordinary skill in the art would have been motivated to perform such an addition, as emulators are known to provide many benefits. Emulators implements specialized hardware devices into software onto pre-existing devices. By doing so, additional hardware is not needed. Since no additional hardware is not needed, space is saved, and money can be saved as well. Such advantages are also shown in col. 1 lines 40-64.

Conclusion

12.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13.

14.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON K. GEE whose telephone number is (571)272-6431. The examiner can normally be reached on M-F, 7:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571) 272-38113811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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11/17/2008

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